

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES *ex rel.*,
BRIDGET MCGINLEY,

Plaintiff/Relator,

v.

DAYTON CHILDREN'S
HOSPITAL,

Defendant.

Case No. 3:22-cv-121

Judge Thomas M. Rose

Magistrate Judge Caroline H. Gentry

FILED UNDER SEAL

**THE UNITED STATES' NOTICE OF ELECTION TO
DECLINE INTERVENTION AND MOTION TO UNSEAL**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action, and requests that the case be unsealed as set forth herein.

Although the United States declines to intervene, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which authorizes the relator to maintain a *qui tam* action in the name of the United States providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the written consent of the United States be required before the Court rules on the request.

Further, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served on the United States and that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action for good cause at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

The Government requests that, as provided under 31 U.S.C. § 3730(b), the seal be lifted as to the filing of this case, the relator's complaint, this Notice of Election to Decline Intervention and the Order entered by the Court pursuant to this Notice. Any pleadings filed and Orders entered after the filing of this Notice of Election to Decline Intervention should not be under seal and should be made available on the Court's Pacer system.

A proposed order accompanies this notice.

Respectfully submitted,

KENNETH L. PARKER
United States Attorney
Southern District of Ohio

s/ Matthew J. Horwitz

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Election to Decline Intervene and Motion for Order Lifting the Seal was served by electronic mail this 6th day of February 2023, on counsel for Relator:

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MATTHEW J. HORWITZ (Ohio No. 082381)

The Defendants have not been served with copies of the foregoing Motion. Moreover, to preserve the integrity of the United States' ongoing investigation, Relator's counsel has been served with a copy of the Notice and Motion.